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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,566	08/30/2001	Toshio Kobayashi	2038-271	6163

7590

06/23/2003

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 06/23/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/941,566

Applicant(s)

KOBAYASHI ET AL.

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1771

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

DE 4,243,012 to Boich et al, (abstract) in view of Pike, U.S. Patent No. 5,935,883 in view of

Boich et al, U.S. Patent No. 5,939,178 and DE 4,243,012 to Boich et al, (abstract). Pike

discloses a material comprising fine denier fabrics which are formed by splitting conjugate fibers.

The fibers of Pike may be formed into both woven and non-woven fabrics. The fabrics may be

laminated with other fabrics such as microfiber webs and films. See col. 2, lines 15-26. The fibers

of Pike are split by water jet, but Pike further teaches at col. 1, lines 25-40, that splittable fibers

may be split by mechanical stretching. Although Pike teaches that mechanical stretching is not

preferred since it may result in incomplete splitting of all the fibers, Pike does teach that

mechanical splitting is a known method of splitting fibers. Pike differs from the claimed invention

because Pike does not disclose that the laminates comprising fabrics formed from the splittable

fibers should comprise an elastically stretchable fabric. Boich '178 teaches that elastic sheets

may be formed by laminating an inelastic fibrous fabric to an elastic fibrous fabric. See col. 3,

lines 36-46. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have included an elastic fibrous layer in the laminate of Pike. One of

ordinary skill in the art would have been motivated to employ an elastic fiber in the laminate of

Art Unit: 1771

Pike in order to impart stretch and elasticity to fabrics and laminates comprising the Pike fibers.

It further would have been obvious to have employed the mechanical stretching method of splitting the fibers rather than the water jets since Boich teaches that the laminate must be stretched, and by employing the mechanical stretching method of splitting the fibers, the need for additional equipment would be obviated. With regard to the limitation that the fibers in the non-elastic sheet have a length which is longer than a straight distance between the adjacent bonding zones, Boich '178 is silent as to the length of the fibers employed. However, Boich et al '787 teaches using endless filaments, (col. 3, lines 33-37), in elastic laminates comprising fibrous inelastic layers, it would have been obvious to have employed fibers which have a length which is longer than the straight distance between the adjacent bonding zones. One of ordinary skill in the art would have been motivated to employ such fibers by the teaching of Boich '787 that such fibers allows a volume gain compared with the material volume used. See col. 2, lines 62-67.

3. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1771

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

Serial Number: 09/941,566

Page 5

Art Unit: 1771

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June 17, 2003